

**AMENDMENTS to the DRAWINGS**

No amendments or changes to the Drawings are proposed.



## **REMARKS**

### **Reconsideration of Previous Rejections and Objections**

We appreciate the Examiner's reconsideration and withdrawal of all previous objections and rejections in view of our previous reply and amendment.

### **Nature of Amendment**

We are cancelling claims to our system embodiment and computer-readable medium embodiment from further consideration in the present patent application solely to facilitate expedient examination to allowance. We are not conceding or agreeing that the subject matter of these cancelled claims is not patentable. We reserve the right to present claims to the same subject matter in one or more continuation patent applications.

We have amended the claims to further specify what a retail fixture is according to our disclosure and the common usage of the term in the retail industry (e.g. a table, shelf, slatwall, gridwall, etc.).

We have also amended the claims to further specify that a *sample* product is being highlighted by our invention, where a sample product can be an actual product for sale (e.g. the user can take it to a cash register to purchase it) or a specimen of a class of products (e.g. a shoe sample for which many other sizes or colors are available in store stock). We believe usage of this term is consistent with our disclosure regarding sample products, and it is consistent with usage of the term in the retail industry.

We have further amended our claims to specify that our "indication" of a matching product is through *illumination* of the sample product on the retail fixture by shining an image around a matching product using a computer-driven projector.

### **Claim Objections**

With respect to the objections to Claims 11 - 20, these claims have been cancelled from consideration in this application.

### **Rejections under 35 U.S.C. §112, Second Paragraph**

With regard to the rejections of claims 11 - 20 under 35 U.S.C. §112, second paragraph, these claims have been cancelled from consideration in this application.



**Rejections under 35 U.S.C. §103(a)**

"Zehner" Reference Relied Upon but not Cited. With regard to the rejections of claims 1 - 5 and 10 under 35 U.S.C. §103(a) over Waters in view of Geiger, it is unclear what secondary reference was intended to be combined with Waters. While the introductory paragraph (page 3, item 8 of the Office Action) states that Waters is being combined with *Geiger*, but the rationale for the rejections does not refer to Geiger. Instead, the rationale refers to *"Zehner"*.

No reference is listed as "Zehner" in any of the Notices of Patents Cited during examination of this application. For this reason, we ask for clarification regarding the details of Zehner so that we can fully respond to the Office Action. Otherwise, Waters alone fails to anticipate all of our claimed elements, steps, and limitations, as stated by the Examiner in the Office Action (page 4, item 13 of the Office Action).

Rejections over Waters. With particular respect to the rationale regarding the teachings of Waters and our Claim 1, we respectfully request the Examiner's reconsideration. In items 11 and 12, page 4, of the Office Action, it was reasoned that:

11. automatically accessing a persistent datastore to retrieve a set of preferences associated with said consumer identity; (Waters teaches user ID being sent to the store processing system) automatically determining if one or more products on said retail fixture match said preferences; and (*Waters shopping system determines the interest of the user.*)

12. activating said display unit indicator to indicate said products which match said preferences such that the attention of said proximate consumer is directed to the physical location of the matching products. (Waters teaches activating the display unit to indicate products that match users interest Pg. 17 18 & 19).

Imagine the differences between two different consumer experience scenarios. First, please image a scenario as painted by Waters' disclosure (paragraph 0051). You are a passenger on a train, and their invention identifies you upon arrival at a train station. A message for you from your family is automatically posted in a 10 second "slot" of multiple messages scrolling by on an electronic display which is located in your anticipated pathway, such as a display on the way down the stairs from the train dock. We agree, that could be useful, but the 10 second timeslot seems a bit brief to catch the attention of a specific person.

Now, imagine a different scenario – you are shopping in a shoe store, desperately trying to find a specific pair of Merrell® Siren Sport model hiking shoes with Lime accents for your upcoming vacation. You've been looking everywhere for these shoes in your size, and the stores



are very busy today. In one store, you see a sample of a Merrell® Siren Sport shoe on a wall display fixture, but you have to get the assistance of a store clerk to find out if they have that model of shoe in your size and if they have it with the Lime accents. But, no clerks are available – they are all helping someone else. So, after a frustrating wait, you go to a second store which happens to be equipped with our invention. As you enter the store, you are identified, and your preferences for the Merrell® Siren Sport (Lime) in size 6 are retrieved. Our invention checks stock for that shoe at that store, and finds that a pair is in stock and available for purchase. As you approach a wall display of many shoes, a halo of an image is projected around the sample Merrell® Siren Sport, indicating to you specifically that they have a pair in stock in your size with the Lime accents. Whew, search over, the rest of your day is available for other activities.

Now please consider how many items each consumer buys and how much shopping in physical stores to find an actual unit in stock they do. This cycle of frustration is repeated for all sorts of clothing items, electronics items, gifts, housewares, etc. You name it, and consumers can spend hours trying to locate an actual product according to their specification (size, color, model, etc.) in stock at a real store. Using our invention, merchants would be able to draw shoppers to their showrooms first, because if it's in stock, the hunt is automatically and conveniently over, and the balance of the time is available for some other activities.

So, we respectfully disagree with the conclusions in the Office Action regarding Waters' disclosure and obviousness of the differences with our claims. We believe that our phrase "*if one or more products on said retail fixture match said preferences*" is not taught by Waters. Waters disclosure is directed towards posting *information* or *messages* for a user on a nearby *electronic display* unit, such as *information* about a product in which the user might be interested. However, this is not the same as determining if an actual product which is physically present on a retail fixture (e.g. "on display on a retail fixture") which meets the user's interests and preferences.

We also disagree that Waters' *displaying a message on an electronic display* is the same as our *activation of a display unit indicator to indicate said products*, where "said products" refers to a product which is physically present on a retail fixture. Waters' electronic message display is a message board, not a lamp or light which illuminates an actual product on a shelf or table, for example.

We believe that those skilled in the art would not confuse *displaying a message on an electronic display* as being the same as finding a matching product which is *on display on a retail fixture*. We especially disagree that our illumination of a sample product on a shelf or wall retail fixture using an image created by a computer projector is the same as the same as



displaying a text message during a 10 second message slot on an electronic display as disclosed by Waters in their paragraph 0034.

We respectfully request reconsideration and allowance of Claims 1 - 4, and 6 - 10 over Waters or Waters in view of a secondary references, whereas Waters fails to teach all of our claimed steps, elements, and limitations. Although we do not agree with the balance of the rationale for the rejections of the claims, we believe that the foregoing arguments and remarks establish sufficient distinctions between the cited art and our claims to render the claims patentable.

**Request for Indication of Allowable Subject Matter**

We believe we have responded to all grounds of rejection and objection, but if the Examiner disagrees, we would appreciate the opportunity to supplement our reply.

We believe the present amendment places the claims in condition for allowance. If, for any reason, it is believed that the claims are not in a condition for allowance, we respectfully request constructive recommendations per MPEP 707.07(j) II which would place the claims in condition for allowance without need for further proceedings. We will respond promptly to any Examiner-initiated interviews or to consider any proposed examiner amendments.

Respectfully,

*/ Robert Frantz /*

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